IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 378 OF 2006

SHRI BALBINO REGINALDO FURTADO, VELIM, SALCETTE GOA. ....Petitioner

Versus

SMT. JESSIE DIAS AND ANR., ...Respondents

Mr. Sudesh Usgaonkar, Advocate for the Petitioner.

Coram:- J. N. PATEL, J.

Date:- 20th December, 2006

P.C.:

Heard.

The petitioner is the original plaintiff No.2 who has impugned the Order dated 20.04.06 passed by the Trial Court which rejected the application for bringing the L.Rs. of the original plaintiff no.1 on record on the ground that the application was delayed by five years approximately. On 9th November, 2006 this Court, in order to give a fair opportunity to the respondents, issued Rule, returnable in four weeks and directed the petitioner to serve the respondent by Humdast.

Mr. Usgaonkar, the learned counsel appearing for the petitioner states that accordingly the parties have been served on Rule.

Inspite of service on the respondents, none appears for them.

On going through the application for condonation of delay for bringing the L.Rs. on record, this Court finds that the plaintiff has been able to make out good and sufficient ground for condoning the delay, considering

the events which took place during the pendency of the suit. The trial Court erred in not allowing the application merely for the reason that it took five years to bring L.Rs. of the plaintiff no.1 on record, ignoring the facts and circumstances stated in the application for condonation of delay which is a matter of record.

Therefore the impugned order is quashed and set aside. Application for condonation of delay is allowed. The petitioner is allowed to bring the L.Rs. of the deceased plaintiff who was the wife of plaintiff no.1 on record, and son and daughter-in-law of plaintiff no.2 who is already prosecuting the suit and on record. Necessary amendment be carried out within four weeks.

Petition stands disposed of accordingly.

J. N. PATEL, J.

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